

IN SENATE OF THE UNITED STATES,

FEBRUARY 6, 1826.

Mr. SMITH, from the Committee on Finance, to which was referred the Memorial of William Dixon and James Dickson,

REPORTED :

That William Dixon, a British subject, and James Dickson, a citizen of the United States, lately co-partners, and trading at Liverpool, under the firm of William Dixon & Co., and in Savannah, under the firm of James Dickson & Co., state in their memorial,

That, in the month of July, 1812, after the repeal of the British Orders in Council, and with the fullest confidence that thereupon the restrictive measures of the United States would instantly cease, and a free and amicable commercial intercourse between the two countries be restored, a confidence which was encouraged and sustained by the opinions and representations of the public agents of the United States, in Great Britain, most of the American houses there made large shipments of goods to the United States. That, among others, the house of William Dixon & Co, shipped to the house of James Dickson & Co. an invoice of goods, amounting to £21,547 16s. 7d. sterling. That the said shipment was an investment of the proceeds of produce before that time consigned by the house in Savannah to the house in Liverpool, was less, in amount, than the share or interest of James Dickson, in the joint funds of the concern, which were then in England, and was intended as a transfer of the funds really belonging to James Dickson, from England to the United States. That, at the time of the said shipment, the house in Liverpool was very largely indebted to the house in Savannah, and the debts of the concern, in the United States, for which, during the continuance of hostilities, James Dickson was alone responsible, amounted to upwards of £12,000 sterling.

That the said goods were shipped in the American ship Thomas Gibbons, and that the said vessel proceeding directly for the port of her destination, off Tybee Island, within a few hours' sail of said port, was captured by the privateer Atas, as prize of war; carried into Savannah, and there libelled by the captors. That, on entering the said port, the Thomas Gibbons and her cargo were also libelled by the Collector of Savannah, for an alleged breach of the non-importation Act. That the Collector was willing to relinquish the vessel

and cargo to the owners, on their giving bonds to be subject to such legislative or judicial proceedings, as the government should subsequently direct against all property so situated, which the owners were willing to give; but that this measure was objected to by the captors, on the ground that the property was prize of war, and, consequently, that no bonds were given.

That the libel of the captors was subsequently dismissed, on appeal, by the Supreme Court of the United States. That such proceedings were had, on the libel of the Collector, that one moiety of the goods were delivered to James Dickson, while the other moiety was retained by the officers, and ultimately condemned for a breach of the non importation Act—the right to petition the Secretary of the Treasury having been denied to William Dixon, by the District Judge.

The petitioners state that their case is a solitary one. That other aliens, having goods on board of the same vessel, have had the forfeitures of such goods remitted. It is shown to the Committee, that the Supreme Court of the United States dismissed the libel of the captors, declaring that the shipment appeared to have been made in *good faith*, and under a *reasonable presumption* that the repeal of the Orders in Council would produce a suspension of hostilities, and, consequently, that the merchandise on board, whether *American* or *British* property, was equally protected from capture, and that the same Court have also decided, that the municipal forfeiture, under the non-intercourse Act, was absorbed in the more general operation of the laws of war.

It is strongly urged by the memorialists, that, even considering this as enemy's property, found within the United States during war, still, as it was brought in, in good faith, and under the protection of the authorities of the United States, they were, at least, entitled to a reasonable time for its removal, and that, if such allowance had not been given, yet it could not have been subjected to forfeiture, but by express statutory regulation. That the treaty of 1794, with Great Britain, allowed twelve months for this purpose, and that the act of 1798, concerning alien enemies, contains provisions which are similar in principle; that, although laws may change, and treaties terminate, humanity does, and national hospitality ought, to remain the same.

It is, moreover, urged by the American partner, that, from the state of the accounts, of which proof is furnished, that these goods were, in equity and in fact, on their arrival in the United States, his sole property, and that he ought to be considered in the light of an American citizen, who, in good faith, and on the earliest knowledge of the war, was withdrawing his property from the enemy's country. That no law forbade the formation of a partnership with a British subject, in time of peace. That, as by the terms of the said partnership, all losses were to be equally divided, whatever is inflicted on one, is sustained also by the other; and that, if a portion of this property is to be forfeited, because of the interest of William Dixon, in the concern, James Dickson is deprived of that protection which is afforded to every other American citizen, and is punished for an act

which was neither forbidden by the laws, nor inconsistent with the policy of the United States.

That this shipment, known to be American property, was not subjected to forfeiture in Great Britain, and was protected by the separate acts of that Government, and of this, in its transit across the ocean; that, having been spared by his enemies, it was seized by his friends, and this too after they (the latter) had held out to it a delusive protection.

The Committee forbear to recapitulate the various other strong grounds which are urged by the petitioners, who appeal to the justice and liberality of Congress, and to the honor of the nation, for a restitution of the proceeds of this property, or, at least, of that part of it which passed into the Treasury of the United States.

The Committee have considered the petition and documents. They think, in perfect accordance with the Supreme Court, that the shipment of the petitioners was made in good faith, with the strongest presumption, founded on the repeal of the orders in council, and fortified by the opinion of the United States' agent, that the non-importation act would cease, and that peace would be restored. Concurring in opinion with the Supreme Court, the Committee do not consider that this property was liable to forfeiture under the non-importation act, nor as prize of war, nor under the general belligerent rights of war. They consider it as having been confided to the honor, and taken under the protection of the United States; and they believe that, on the state of facts made out by the petitioners, it was entitled to that protection on the soundest principles of law, and the most obvious dictates of policy. They regret that the rule uniformly adopted prevents them from advising a full restitution of the property, and, therefore, find themselves compelled to limit their recommendation to the restoration of the amount paid into the Treasury; for which purpose they report a bill.

